

REMARKS

The minor objections raised by the Patent Examiner to claims 6 and 16 in this application have been duly noted and corrected by this amendment.

The present invention relates to a paving block 1 for bearing wheeled traffic. The paving block 1 includes both an upper planar surface 6 and lower planar surface 5, which surfaces are spaced apart from each other and generally parallel to each other.

A lateral surface extends between the upper and lower surfaces 6 and 5 on each side of the block. Each lateral surface, furthermore, includes both a planar lower portion 7 and an associated upper tapered planar portion 8. Additionally, the lower planar portion 7 of each lateral surface lies in a plane generally perpendicular to the plane of the lower surface 5 so that, with the blocks positioned adjacent each other, the lower portion 7 of the lateral surfaces of adjacent blocks abut against each other.

The paving block as thus far described is quite conventional in construction. Many of the prior art references cited by the Patent Examiner, including the Patent Examiner's primary reference to Barth et al. (the '698 patent), clearly show such construction. However, what makes Applicant's paving block different from not only the Barth prior art reference, but all of the other prior art references of record, is that the plane of the upper tapered portion 8 of each lateral side intersects the plane of its associated lower tapered portion 7 at an angle of greater than 0° and less than 15° . This construction, which is positively recited in the two independent claims, i.e. claims 20 and 21 in this application, achieves several advantages not shown by the prior art.

First, since the upper tapered portion of each lateral side intersects the lower planar portion of each lateral side by a relatively small angle, i.e. greater than 0° and less than 15° , the upper edge of each upper tapered portion 8 is spaced from and generally parallel to the upper

edge of the upper tapered portion of the adjacent paving block. As such, a gap is formed between the adjacent upper edges of the block which prevents the upper edges of each block from contacting the upper edges of the adjacent blocks even despite slight rocking of the block in response to a load on the block, i.e. from a wheeled vehicle. As such, this construction effectively prevents, or at least greatly reduces, spalling of the paving blocks in use.

A still further advantage of Applicant's invention as it is positively defined in independent claims 20 and 21 is that the gap between the upper edges of adjacent blocks is very small due to the relatively small angle of intersection between the upper tapered planar portion and the lower planar portion of each side of the paving block. As such, small items, such as the heel of a woman's high-heeled shoe, cannot enter into the space between adjacent paving blocks. The gap is simply too small.

The Patent Examiner, however, has rejected claims 20 and 21, i.e. the two independent claims, as anticipated, or in the alternative unpatentably obvious, over the '698 patent to Barth et al. However, as acknowledged by the Patent Examiner in his Office Action of December 2, 2003, there is absolutely no teaching in the Barth et al. '698 patent of providing a paving block having the upper tapered portion of the lateral side intersecting the lower planar portion at an angle in the range of greater than 0° up to 15° . As such, the Patent Examiner's rejection of claims 20 and 21 under 35 U.S.C. §102 is clearly in error.

Furthermore, since there is absolutely no suggestion of this $0-15^{\circ}$ angular range in the Barth et al. '698 patent, the Patent Examiner's rejection of claims 20 and 21 as unpatentable under 35 U.S.C. §103 is likewise in error. Applicant reminds the Patent Examiner that there must be motivation within the four corners of the Barth et al. '698 patent in order to modify the Barth et al. '698 patent in the fashion suggested by the Patent Examiner. Since the Barth et al.

'698 patent is simply silent on this particular feature of Applicant's invention, by definition, there is no motivation. Also, the motivation cannot be supplied from Applicant's disclosure based upon hindsight.

Although the Patent Examiner has not relied upon any secondary reference in combination with the Barth et al. '698 patent in his rejection of claims 20 and 21, absolutely none of the other prior art references cited by the Patent Examiner during the lengthy prosecution of this case disclose Applicant's positively claimed feature of intersecting the upper tapered portion of each lateral side with the lower planar portion at an angle in the range of greater than 0° up to a maximum of 15° . Specifically, this feature is clearly not shown in U.S. Patent No. 5,051,023 to Yoshida et al. previously relied upon by the Patent Examiner in his rejection of the claims. Instead, the Yoshida et al. second surface 2 appears to intersect the lower surface at an angle of 90° , not in the range of greater than 0° up to a maximum of 15° . The same is also true for U.S. Patent No. 5,727,762 to Landers previously relied upon by the Patent Examiner in his rejection of the claims. Instead, Landers merely discloses a single planar surface for the side surfaces. In the event that the upper tapered surface of Landers is interpreted as the second tapered surface, the intersection between these two surfaces appears to be in the range of greater than 75° , not in the range of greater than 0° up to a maximum of 15° .

Likewise, the secondary references relied upon in combination with the Barth et al. '698 patent by the Patent Examiner in his most recent Office Action with respect to the rejection of some of the dependent claims clearly do not disclose this feature of Applicant's invention.

All of this, furthermore, was discussed in great detail at the interview held at the Patent Office on October 8, 2003. At that time, according to the interview summary, the Patent Examiner indicated that "The proposed amendment appears to overcome the cited art of record,

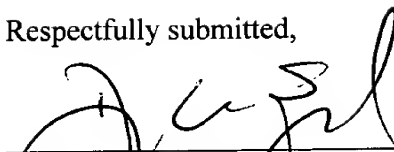
if filed formally.” Applicant acknowledges that the new claims 20 and 21 filed in Applicant’s most recent amendment do not correspond exactly to the claims discussed at the interview. However, the only differences between new claims 20 and 21 and the claims discussed at the interview relate to the water channels, which everyone agreed at the interview was a feature disclosed in the prior art. As such, the deletion of some of the features relating to the water channels from claims 20 and 21 from those discussed at the interview has absolutely no bearing upon the patentability of claims 20 and 21.

In closing, Applicant acknowledges that the paving block disclosed in this application does not constitute a “pioneer” invention. There are many prior art paving blocks and the most pertinent of these prior art paving blocks appear to have been cited by the Patent Examiner during the prosecution of this case. However, Applicant does not claim to have invented a “paving block” but rather only the paving block that is specifically defined in claims 20 and 21 as well as the dependent claims. That specific paving block achieves several advantages not achieved by the prior art paving blocks and clearly differs in construction as claimed from the prior art paving blocks.

For all the foregoing reasons, Applicant respectfully submits that claims 20 and 21, together with all of their dependent claims, patentably define Applicant’s invention over the prior art references of record and are, therefore, allowable.

Such action is respectfully solicited.

Respectfully submitted,



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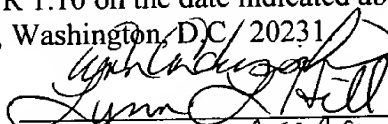
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